IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

LA.App..No. 25 of 2004()

LAR.137/1998 of PRINCIPAL SUB COURT,PARAVUR
.....

APPELLANT: 1ST RESPONDENT

STATE OF KERALA, REPRESENTED BY THE
DISTRICT COLLECTOR, ERNAKULAM.

BY GOVERNMENT PLEADER SMT.K.R.DEEPA

RESPONDENTS: CLAIMANT & ADDL.2ND RESPONDENT
---

1. CHERIYATH KORATH, ALUKKAPUTHUSSERY
AVANAMCODE.

2. KOCHI INTERNATIONAL AIRPORT SOCIETY,
NEDUMBASSERRY.

BY ADV. SRI.N.N.SUGUNAPALAN, SC, KIAS LTD.
SRI.DINESH R.SHENOY

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 23/10/2007, ALONG WITH L.A.A.No.459/2002, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. Nos. 25 & 199 of 2004

Dated this the 21st day of November 2007

JUDGMENT

Harun-Ul-Rashid,J

These two appeals arise out of a decree and judgment in L.A.R. 137/1998 on the file of the Sub court , North Paravur. In L.A.A. 25/2004 an extent of 27.00 Ares of land comprised in Survey No. 484/11 of Angamaly Village with its improvements belonging to the claimants was acquired for the construction of the terminal of Kochi International Airport. Section 4(1) notification is dated 8-7-1994. The court below granted enhancement at the rate of 96% over and above the land value fixed by the Land Acquisition Officer. The market value of the land covered by the same acquisition was fixed by this Court at the rate of 45% over and above the land value fixed by the Land Acquisition Officer in L.A.A 412/2001 and connected cases. In view of the fact that the land value was re-fixed by this Court, the respondents/ claimants in L.A.A 25/2004 is entitled to enhancement at the rate of only 45% of the land value over and above fixed by the Land Acqusition Officer. Therefore L.A.A 25/2004 is partly allowed.

2. In L.A.A 199/2004 the appellant/claimant challenged the categorisation of the acquired land. The acquired land was categorised as double crop paddy land having Panchayath road frontage. According to the appellant/claimant the categorisation is incorrect. The appellant/

claimant relied on the commissioner's report and the mahazar prepared by the Land Acquisition Officer in connection with the acquisition. In the Commissioner's report it is reported that the acquired land is lying at a higher level than the Panchayath road. In the mahazar wefound that the land is a double crop paddy land (irupoo Nilam) . We found that there are some improvements in the property. It is stated in the mahazar that there are 97 plantain trees and 23 coconut saplings aged 2 years . In the light of the fact that the property as reported by the Commissioner we found that this property is having further improvements . The categorisation ought to have been as myal land and not double crop paddy land. The Land Acquisition Officer ought to have been fixed the land value at the rate of 3,500/- per Are for the myal land. In the circumstances we fix the land value at the rate of Rs. 3,500/- and the appellant/claimant is entitled to Rs. 3,500/- per Are for the acquired land. He is also entitled to all eligible statutory benefits including interest on solatium.

In the result, L.A.A. 199/2004 is partly allowed.

KURIAN JOSEPH, JUDGE

HARUN-UL-RASHID, JUDGE

es